

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SKINNY IT CORP,

Plaintiff,

v.

**JACOB HORWITZ and ALMAR
MANAGEMENT, LLC,**

Defendant.

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CASE NO. 4:18-CV-551-ALM-KPJ

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On December 3, 2018, the Report of the Magistrate Judge (Dkt. #43) was entered containing proposed findings of fact and recommendations that this case be dismissed without prejudice because Plaintiff Skinny IT Corp. (“Plaintiff”) is not represented by counsel.

Having received the Report of the United States Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s recommendations as the findings and conclusions of the Court.

On October 31, 2018, the Court issued an order permitting the withdrawal of Plaintiff’s counsel (the “Order”) (Dkt. #41) and ordering Plaintiff to obtain new counsel and inform the Court of the identity of such counsel within fourteen (14) calendar days of the date it received notice of the Order, or the Court would recommend that Plaintiff’s case be dismissed. *See* Dkt. #41. The

record indicates that a copy of the Order was provided to Martin Brown (“Brown”), Skinny IT Corp.’s general counsel, and Sam Darwish (“Darwish”), its president. *See* Dkt. #42. Plaintiff did not respond to the Court’s Order and failed to inform the Court of its new counsel by the deadline given. As the Magistrate Judge explained, “a corporation cannot appear in federal court unless represented by a licensed attorney.” Dkt. #43 at 1-2 (quoting *Memon v. Allied Domecq QSR*, 385 F.3d 871, 873 (5th Cir. 2004)).

The record indicates that on December 4, 2018, a copy of the Magistrate Judge’s Report (Dkt. #43) was mailed to Brown and Darwish at Plaintiff’s corporate address of record in Frisco, Texas, via United States Postal Service Certified Mail Return Receipt Requested. On December 31, the envelope containing the Report (Dkt. #43) was returned as undeliverable. *See* Dkt. #44. In light of the fact that Plaintiff has been admonished that it cannot proceed without counsel and ordered to retain counsel within a certain period of time, and Plaintiff has failed to respond, the Court finds dismissal without prejudice, is appropriate. Accordingly, this case is **DISMISSED WITHOUT PREJUDICE**. The matter is **CLOSED** on the Court’s docket, and all costs shall be borne by the party incurring same.

IT IS SO ORDERED.

SIGNED this 12th day of January, 2019.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE